



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	5/21/01	Bill No:	AB 664
Tax:	Hazardous Substances	Author:	Dutra
Board Position:	Board-sponsored	Related Bills:	

BILL SUMMARY

This bill would exempt from the environmental fee nonprofit religious corporations identified by Standard Industrial Classification (SIC) Code 8661.

ANALYSIS

Current Law

Under existing law, Section 25205.6 of the Health and Safety Code requires corporations in industry groups that use, generate, store, or conduct activities in this state related to hazardous materials to pay an annual fee to the State Board of Equalization (Board). This environmental fee is based on the number of employees employed by a corporation in the state during the previous calendar year.

The environmental fee is adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the California Consumer Price Index (CCPI). The fee rates for the 2001 calendar year are as follows:

Number of Employees	Annual Fee Rate
1 – 49	\$0
50 – 74	\$217
75 – 99	\$381
100 – 249	\$761
250 – 499	\$1,631
500 – 999	\$3,044
1,000 or more	\$10,331

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

The annual fee is paid to the Board and deposited into the state's Toxic Substances Control Account.

In General

Each year, the Department of Toxic Substances Control (DTSC) provides the Board a list of federal SIC codes for the industry groups that are engaged in activities subject to the fee. Current law specifically excludes from the fee nonprofit residential care facilities assigned SIC Code 8361. In addition, the DTSC has identified private households assigned SIC Code 88 as a SIC Code group not primarily engaged in a business activity that uses, generates or stores hazardous materials. The following industry groups have also been identified as exempt from the fee based upon the Revenue and Taxation Code or other statutory provisions:

- Insurance companies that pay tax on gross premiums in lieu of all other California taxes and license
- Banks that pay a tax on net income in lieu of other California taxes and licenses
- US Government corporations

In order to impose liability for the fee, it is only necessary to show that the corporation is primarily engaged in activities that fall within a SIC code for an industry which uses, generates, stores, or conducts activities related to hazardous materials as determined by the DTSC. It is not necessary to show that any particular corporation in fact uses, generates, stores, or conducts activities related to hazardous materials. Nor does the fee depend on the amount of "hazardous waste" (which term has a different definition than "hazardous material" in the Health and Safety Code) generated, stored or disposed. Accordingly, it is not the type or level of activity of a corporation per se that triggers the imposition of the fee, but rather the fee applies generally to all corporations in certain SIC codes.

In addition to the fee which is based on SIC code and number of employees, the Board administers four other hazardous waste fee programs in cooperation with the DTSC which relate directly to the amount of hazardous waste disposed of, generated or stored by a person.

Proposed Law

This bill would amend Section 25205.6 of the Health and Safety Code to expand the current exemption from payment of the environmental fee for nonprofit residential care facilities to include nonprofit religious corporations identified by SIC Code 8661.

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Background

In 1989, Senate Bill 475 (Chapter 269, Statutes of 1989) added and Assembly Bill 41 (Chapter 1032, Statutes of 1989) amended Section 25205.6 of the Health and Safety Code to require certain corporations involved in activities related to hazardous materials to pay an annual fee based on the number of employees employed in this state. The purpose of the fee was to broaden the revenue base that supports the Hazardous Waste Control Account. In addition, it was believed that corporations that handle hazardous materials should contribute support to the programs that regulate hazardous materials.

In 1994, Assembly Bill 3540 (Chapter 619, Statutes of 1994, Andal) amended Section 25205.6 to add an exemption for nonprofit residential care facilities which are identified by SIC Code 8361. According to the Board's Legislative Bill Analysis of AB 3540, the author's office stated that most nonprofit corporations exempted from the environmental fee by AB 3540 did not generate significant amounts of hazardous waste and the fee imposed was a hardship for many of these corporations.

COMMENTS

1. **Sponsor and purpose.** This Board sponsored bill is intended to relieve religious organizations operated for worship, religious training or study, government or administration of an organized religion, or for promotion of religious activities of the additional burden of paying the environmental fee. The Board believes that nonprofit religious organizations pay sums that are excessive. For example, these organizations currently pay the same fee as hospitals, which use, generate, and store significantly more hazardous materials in this state. Furthermore, this fee imposes a hardship on these not-for-profit organizations that already operate on a limited budget.
2. **The fee would continue to apply to those religious organizations not classified in SIC Code 8661.** This bill would only exempt from the environmental fee a nonprofit religious corporations identified by SIC Code 8661. The fee would continue to apply to other establishments maintained by religious organizations, such as educational institutions, hospitals, publishing houses, reading rooms, social services, and secondhand stores, that are classified (by SIC Code) according to their primary activity. For example parochial schools (elementary and secondary) are classified in SIC Code 8211 (*Primary and Secondary Schools*) and hospitals operated by religious organizations are classified in SIC Code 8062 (*Hospitals*).
3. **Board staff does not foresee any administrative problems with this measure.** Expanding the current exemption from payment of the environmental fee for nonprofit residential care facilities to include nonprofit religious corporations identified by SIC Code 8661 would not materially affect the Board's administration of the Hazardous Substances Tax Law.

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COST ESTIMATE

The administrative costs associated with this bill would include notifying feepayers, training Board staff, revising returns, and advising and answering inquiries from the public. These costs would be absorbable.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Background. The environmental fee is a fee on corporations in industry groups that use, generate, or store hazardous materials or that conduct activities related to those materials. Most corporations doing business in California, including nonprofit corporations, are required to pay the fee if they have at least 50 employees, as defined by statute. The amount of the fee varies, depending on the number of employees. The Health and Safety Code requires the fee to be adjusted for inflation each year based on the California consumer price index. The fee is annual, due the last day of February.

In March 2000, the Environmental Fees Division of the Special Taxes Department made an estimate of environmental fees paid in the 1998 reporting period by all nonprofit corporations under Section 23701 of the California Revenue and Taxation Code. This 1998 estimate, made using a combination of Franchise Tax Board and Board of Equalization data, was approximately \$1.95 million. Of this figure, the Environmental Fees Division staff estimates that nonprofit religious corporations paid approximately \$200,000 in fees.

Assumptions. We assume that there will be no significant growth in the number of nonprofit religious corporations subject to the fee between 1998 and 2003. For purposes of estimating revenues, we also assume no significant growth in the California consumer price index.

Revenue Summary

The revenue loss of exempting nonprofit religious corporations would be approximately \$200,000 in fiscal year 2002-03, the first year the exemption would be in effect, and each year thereafter.

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